

# SUMMARY MINUTES OF THE SAINT PAUL CITY COUNCIL

Wednesday, June 20, 2007 - 3:30 p.m.

Note: All City Council meetings are on the City of Saint Paul's website. Meetings can be viewed in their entirety or a specific item can be viewed. Visit our website at <a href="https://www.ci.stpaul.mn.us/council">www.ci.stpaul.mn.us/council</a> and click on Watch the Live Webcast.

The meeting was called to order at 3:53 p.m. by Council President Lantry.

Present – 4 – Benanav, Helgen, Lantry, Thune

Absent -3 – Bostrom, Harris and Montgomery (arrived after roll call)

# **CONSENT AGENDA (Items 1 - 19)**

NOTE: ALL ITEMS LISTED UNDER CONSENT AGENDA WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS. IF DISCUSSION IS DESIRED BY A COUNCILMEMBER, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

Council President Lantry withdrew Item #11.

Councilmember Helgen removed Items 9 and 13 for separate discussion.

Councilmember Harris moved approval of the consent agenda as amended.

Adopted Yeas - 7 Nays - 0

#### COMMUNICATIONS AND ADMINISTRATIVE ORDERS

- 1. Claims of Desnoyer Park Improvement Association, and Eric G. Huber. Referred to Risk Management
- 2. Letter from the Department of Public Works/Technical Services Division Real Estate announcing a public hearing before the City Council on July 5, 2007 to consider a resolution to divert City park land in Lilydale Park for the purpose of installing an underground gas pipeline for Xcel Energy to service its new High Bridge power plant, and to authorize City officials to enter into easement agreements with Xcel Energy for construction and use of the pipeline.
- 3. Letter from the Department of Planning and Economic Development announcing a public hearing before the City Council on July 5, 2007 to consider the application of Teresa Deming to rezone property at 1539-1541 Lincoln Avenue, between Saratoga Street and Snelling Avenue, from R4 (one-family residential) to RT2 (townhouse residential). (ZF 07-074-940)

- 4. Letter from the Department of Safety and Inspections announcing a public hearing before the City Council on July 5, 2007 to consider the appeal of Edina Properties, Inc., Jenifer Kent, to a decision of the Board of Zoning Appeals which determined that Noodles & Company restaurant was a fast-food restaurant (Application for 777 Grand Avenue). (ZF 07-093604)
- 5. Letter from the Department of Safety and Inspections announcing a public hearing before the City Council on July 5, 2007 to consider the appeal of Kawaljit Bhatia/Maharaja's to a decision of the Board of Zoning Appeals granting a variance to allow maneuvering for off-street loading within the public right-of-way at 211 West Seventh Street (Cossetta's). (ZF 07-095865)
- 6. Administrative Order:

D002665 Approving a budget revision in the Department of Safety and Inspections to allow salary savings to be used for purchase of a van.

On file with the City Clerk

## FOR ACTION

- 7. Approval of minutes of June 6, 2007. Adopted Yeas – 7 Nays – 0
- 8. Resolution 07-528 Approving the Memorandum of Agreement between the City of Saint Paul and the United Association of Plumbers, Local 34, 2007 Wage and Fringe Adjustment. (To be laid over one week for adoption)

  Laid over to June 27 for adoption
- 9. Resolution 07-529 Approving the 2008 bonding requests to the State of Minnesota. (*removed for discussion*)
- 10. Resolution 07-530 Accepting a gift, up to \$1,400.00, from the Annie E. Casey Foundation to cover travel, lodging, and food costs for Department of Planning and Economic Development staff participation at a Community Benefit Agreements session held on May 17, 2007.

Adopted Yeas - 7 Nays - 0

11. Resolution – 07-531 – Approving the Multi-Family Revenue Bonds in the amount of \$6,600,000 for the Winnipeg Project located on Rice Street.

Withdrawn

12. Resolution – 07-532 – Authorizing the proper City officials to enter into a Grant Agreement with the Minnesota Pollution Control Agency (MPCA) for the purpose of creating local policies, procedures and regulations to support and guide green development within the City of Saint Paul.

Adopted Yeas - 7 Nays - 0

13. Resolution – 07-533 – Accepting a gift from the Como Zoo and Conservatory Society allowing City Councilmembers and the Mayor to attend Como Zoo and Conservatory Society's Annual Sunset Affair Benefit Gala on July 26, 2007. (removed for discussion)

14. Resolution – 07-534 – Authorizing the proper City officials to enter into an agreement with Independent School District 625 whereby the parties will jointly offer Community Programs.

Adopted Yeas - 7 Nays - 0

15. Resolution – 07-535 –Authorizing the proper City officials to renew the lease agreement with West 7<sup>th</sup> Community Center, Inc. for management of the West 7<sup>th</sup> Community Center.

Adopted Yeas - 7 Nays - 0

16. Resolution – 07-536 – Authorizing reimbursement of \$764.65 to Vicki Scheunemann for expenses related to attending the AZA Conservation Conference on behalf of Como Park Zoo and Conservatory.

Adopted Yeas - 7 Nays - 0

17. Resolution – 07-537 – Canceling the assessment for the repair of sanitary sewer connections for the Arlington/Pascal RSVP at 1440 Sheldon Street and billing the same assessment to the previous owners of said property.

Adopted Yeas - 7 Nays - 0

18. Resolution Approving Assessment – 07-538 – In the matter of the assessment of benefits, cost, and expenses for repair of sanitary sewer connections, at the request of the property owners, in conjunction with improving Burlington Road from Totem Road to Totem Road, and setting date of public hearing for July 18, 2007. [File No. 19019C]

Adopted Yeas – 7 Nays - 0

19. Resolution Approving Assessment – 07-539 – In the matter of the assessment of benefits, cost, and expenses for Tenant Remedy Action Rehabilitation for properties at 1250 3<sup>rd</sup> Street East and 507 Van Buren Avenue, and setting date of public hearing for July 18, 2007. (GS 3040379)

Adopted Yeas - 7 Nays - 0

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9. Resolution – 07-529 – Approving the 2008 bonding requests to the State of Minnesota. Councilmember Helgen stressed the importance of a comprehensive transportation plan that would include the Red Rock Line, the Rush Line and the hi-speed rail to Chicago.

Councilmember Bostrom was concerned that Public Works facilities were not included in this proposal and wanted to take another look at it. Councilmember Helgen stated that specific details are not worked out on this document as there is a deadline to the Legislature to get the dollars marked for these projects.

Councilmember Helgen introduced a substitute resolution and moved approval Substitute adopted Yeas - 7 Nays - 0

13. Resolution – 07-533 – Accepting a gift from the Como Zoo and Conservatory Society allowing City Councilmembers and the Mayor to attend Como Zoo and Conservatory Society's Annual Sunset Affair Benefit Gala on July 26, 2007. (removed for separate discussion)

Councilmember Helgen invited the Council to come to this event.

Councilmember Helgen moved approval

Adopted Yeas - 7 Nays - 0

### FOR DISCUSSION

20. Consideration of the appeal of Tom Dimond et al to a decision of the Planning Commission approving a Conditional Use Permit, Variances, and revised Site Plan for Holman Field subdrain improvements. (ZF 07-078-905) (Public hearing held and laid over June 6; laid over June 13)

Council President Lantry raised concerns that this plan was approved on a concept and that a site plan was never submitted. The issue is whether to allow variances to be granted when no permits or permissions have been granted. She said wants the council to look at how to get control of this project and insure agreements are being followed. She expressed concern that they chose to put a sewer in the area that has the highest impact on the environment and read into the record why she was going to grant the appeal on the site plan and conditional use permit and deny the three (3) variances that the MAC applied for. Councilmember Benanav received assurances from the MAC president that guidelines would be followed and monitored. He said he wants a plan showing where the wall will actually be – not a concept. Council President Lantry requested that Tom Beach, Department of Safety and Inspections, ensure that engineering plans are submitted before construction starts and that the City Council have the actual plans.

Council President Lantry moved to grant the appeal Appeal granted Yeas – 4 Nays – 3 (Bostrom, Harris, Montgomery)

#### **ORDINANCES**

NOTE: AN ORDINANCE IS A CITY LAW ENACTED BY THE CITY COUNCIL. IT IS READ AT FOUR SEPARATE COUNCIL MEETINGS AND BECOMES EFFECTIVE AFTER PASSAGE BY THE COUNCIL AND 30 DAYS AFTER PUBLICATION IN THE SAINT PAUL LEGAL LEDGER.

21. Final Adoption – 07-392 – An Administrative Ordinance establishing the minimum qualifications for the position of Fire Chief. (Amended May 23 and laid over for public hearing and final adoption) (Substitute introduced and laid over from June 13) CM Benanav said it was brought to his attention that diversity should be a part of this process.

Councilmember Benanav moved approval.

Adopted Yeas -6 Nays -1 (Montgomery)

22. Second Reading – 07-526 – An ordinance amending Chapter 33.07 of the Saint Paul Legislative Code to provide for variances of corner clearance requirements. (GS 3040493)

Laid over to July 5 for third reading/public hearing

The meeting was recessed from 4:30 p.m. to 5:33 p.m.

Present -7 Absent -0

#### **PUBLIC HEARINGS**

23. Public hearing and Final Adoption – 07-212 – An ordinance amending the Charter of the City of Saint Paul to place the City Clerk under the authority of the City Council. (Laid over from April 25)

Richard Neumeister, St. Paul resident, raised concerns that the City Clerk is the compliance official and he doesn't want to see this position be influenced by political decisions.

Councilmember Thune moved to close the public hearing and approval Yeas - 7 Nays - 0

24. Final Order – 07-540 – In the matter of constructing a new sidewalk on both sides of North Dunlap Street from West Minnehaha Avenue to Hubbard Street. [File No. S0705]

Marcia Moermond, Legislative Hearing Officer, presented a staff report and distributed a map of the project to the Council. Public Works pursues sidewalks based on neighborhood requests and treats all requests as a benefit to the City. They work in conjunction with the Forestry Division in the Division of Parks and Recreation to preserve mature trees whenever possible. The main policy goal was to maintain a

connection on the north-south connection which could be accomplished with a sidewalk on one side of the street.

Council President Lantry wanted to know why the sidewalk isn't placed between the property line and the trees. Al Czia clarified that new sidewalks ideally are on the property lines but in this case alternatives needed to be made on savings trees. This option was the most benefit with minimum costs.

The following people spoke in opposition to this issue due to losing mature trees and the proposed sidewalk not going to a specific destination:

- Lori Larkin, 1663 Inglewood
- Terrence Bogie, 1223 Seminary

Councilmember Benanav moved to close the public hearing. Yeas - 7 Nays - 0

Councilmember Benanav moved approval as amended (Delete sidewalks on west side of North Griggs between Seminary and Hubbard Avenue; west side of North Dunlap between West Minnehaha and Engelwood Avenue; and east side of North Dunlap between Englewood and Seminary Avenue) (Approve both sides of North Dunlap between Engelwood and Seminary Avenue; and both sides of North. Dunlap between Seminary and Hubbard Avenue)

Adopted as amended Yeas - 7 Nays - 0

25. Final Order – 07-541 – In the matter of constructing a new sidewalk on the west side of North Griggs Street from West Seminary Avenue to Hubbard Avenue. [File No. S0706]

No one appeared in opposition; Councilmember Benanav moved to close the public hearing and refer to item 24 where this was discussed.

Approved as amended (combined with item #24) Yeas -7 Nays -0

26. Resolution – 07-542 – Approving the application for a sound level variance by Ron Maddox in order to present live music, with limitations, for Taste of Minnesota at Harriet Island Regional Park from 3:00 p.m. to 10:00 p.m. on June 29, July 2, and July 3, 2007, and from 1:00 p.m. to 10:00 p.m. on June 30, July 1 and July 4, 2007.

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approval.

Adopted Yeas - 7 Nays - 0

27. Resolution – 07-543 – Granting Tim and Sherry Kehoe an exemption from the sound level limitations in order to present amplified music, with limitations, from 6:00 p.m. to 10:00 p.m. on June 30, 2007, 1335 Pinehurst Avenue.

No one appeared in opposition; Councilmember Harris moved to close the public hearing and approval.

Adopted 
$$Yeas - 7$$
 Nays - 0

Councilmember Benanav asked that item #25 be reconsidered and withdrawn Yeas – 7 Nays - 0

28. Resolution – 07-544 – Approving adverse action against all licenses held by Sophia Vega, Inc., d/b/a Viaduct Inn Mexican American Cuisine, 1056 – 7<sup>th</sup> Street East.

Rachel Gunderson, Assistant City Attorney representing the Office of LIEP, gave a staff report and stated that minors were served at this establishment.

Ruben Vega, 1056 7<sup>th</sup> Street East, appeared and apologized for this violation.

Councilmember Bostrom moved to close the public hearing and approval Yeas - 6 Nays - 0 (Councilmember Montgomery not present)

29. Public hearing to consider the report of the Administrative Law Judge concerning all licenses held by Billy Neng Yang, d/b/a Asian Cuisine, 945 Rice Street.

Rachel Gunderson, Assistant City Attorney representing the Office of LIEP, gave a staff report recommending some changes to the Administrative Law Judge's recommendation based on the fact that in four months they had four violations.

No one appeared in opposition; Councilmember Helgen moved to close the public hearing and to adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge with the exception of Finding of Fact #11, and Conclusion of Law # 10 and reject the Recommendations of the Administrative Law Judge; adopt the exceptions filed by the City Attorney's Office and the Department of Safety and Inspections including the recommended fine of \$1500 based on multiple violations occurring over a short period of time. Yeas -7 Nays -0

30. Public hearing to consider the appeal of Goodmanson Construction to a decision of the Heritage Preservation Commission denying a retaining wall along the front property line at 579 Laurel Avenue (Historic Hill District). (File No. 07-167)

Amy Spong, staff member to the Heritage Preservation Committee (HPC), gave a staff report. Some of the architectural details regarding the stone style and configuration on the wall did not align with the criteria of the HPC.

Pat Wandzel, 573 Laurel Avenue, a neighbor to the owner, spoke in opposition. He felt the wall was professionally built and he's glad to see his neighbor improving his property. He feels the HPC leaves no room for negotiation in its decisions and that is a dictatorship - not a democracy.

Councilmember Montgomery moved to close the public hearing Yeas-7 Nays - 0

Councilmember Montgomery received clarification from Amy Spong that the owners were told the wall did not meet the criteria of the HPC before they backfilled it so there was an opportunity for the owners to change this. Councilmember Benanav raised concerns that a building inspector told them they didn't need a permit to build the wall and Councilmember Bostrom asked to continue the public hearing so the Council could hear from inspectors on this issue. Councilmember Harris said the wall isn't close to the historical criteria so he didn't think continuing the public hearing would change anything.

Councilmember Montgomery moved to deny appeal Yeas - 6 Nays - 1 (Bostrom)

31. Public hearing to consider the appeal of David Heide, David Heide Design Studio, to a decision of the Heritage Preservation Commission denying alteration of the front entry canopy and alteration of a front brick retaining wall at 1760 Summit Avenue, Summit Avenue West Historic District. (File No. 07-179)

Amy Spong; Department of Safety and Inspections, Heritage Preservation Committee (HPC) gave a staff report that part of the appeal was granted but the front entry canopy and alteration of the retaining wall coping was denied.

David Heide, Project designer & former chair of the HPC, spoke for the appellant. He felt that the current coping was not original with the house because the coping color did not match the brick. Also, the chief walls by the entrance presently have limestone caps which sets a precedent for stone on the building. He understands the HPC's position on preserving the heritage but there are several houses along Summit Avenue that have the prairie style house with stone elements on brick walls. The hood would be rebuilt and extended out with attention to the original architectural detail. He cited examples of this

being done on prairie style houses in the area. He said that if the buildings within historic districts are not allowed to evolve with careful and conscientious changes, they will ultimately become obsolete and we will lose the historic fabric in St. Paul. He sees the job of the HPC to remain viable instead of an impediment to the improvements people are trying to make.

Deborah Asplund, 1760 Summit Avenue, property owner, spoke in opposition to the appeal saying they are trying to maintain the original architecture of this home and have done a great deal of research in respects to this style of house historically. The hood is being extended for weather protection and there are designs that the home's architect has designed with the overhang. The stone caps give a longer life to the wall than brick because of lack of mortar lines and it is in conjunction with the front entry of the house.

Council President Lantry moved to close the public hearing. Yeas -7 Nays -0

Councilmember Harris moved to grant the appeal with amendments (the coping material on the retaining wall will be allowed if the dark brown color is used and that the material used will be more compatible with the current visual characteristics of the wall which should comply with the guidelines that the historic elements be maintained; and the applicants submit another plan to the HPC for a covered hood with and without columns that better relates to the individual property.)

Appeal granted Yeas - 7 Nays - 0

32. Resolution Ratifying Assessment – 07-545 – In the matter of the assessment of benefits, cost and expenses for summary abatements (property clean-up) on private property from March 15 to March 29, 2007 at 776 Lafond Avenue [J0705A1]. (Laid over (Legislative Hearing Officer recommends deleting the assessment)

No one appeared in opposition; Councilmember Montgomery moved to close the public hearing and approval as amended. (per the recommendation of the Legislative Hearing Officer)

Adopted as amended Yeas - 7 Nays - 0

33. Resolution Ratifying Assessment – 07-546 – In the matter of the assessment of benefits, cost and expenses for towing abandoned vehicles from private property during January, 2006 [J0701V]; boarding-up vacant buildings during March, 2007 [J0702B]; summary abatements (property clean-up) on private property from March 29 to April 12, 2007 [J0706A]; providing weekly garbage hauling services from April 4 to April 12, 2007 [J0706G]; and demolition of a vacant building at 972 Conway Street during April, 2007 [J0705C]. (Legislative Hearing Officer recommends the following:

1002 Concordia Avenue (J0706A) - approve the assessment;

961 Cook Avenue East (J0706A) - delete the assessment;

1631 Dieter Street (J0706G) - approve the assessment;

439 Forest Street (J0706A) - approve the assessment;

<u>1024 Geranium Avenue East</u> (J0706G) - recommendation is forthcoming <u>approve the</u> assessment;

1029 Marshall Avenue (J0702B) - delete the assessment;

754 Minnehaha Avenue West (J0706A) - delete the assessment;

426 Mount Ida Street (J0706A) - delete the assessment;

1415 Payne Avenue (J0706A) - delete the assessment;

630 Pierce Butler Route (J0706A) - approve the assessment;

<u>1000 Seventh Street East</u> (J0702B) - <del>approve the assessment</del>; <u>delete the assessment</u> (per City Council)

1533 University Avenue West (J0706A) - delete the assessment; and

<u>918 Westminster Street</u> (J0706A) - approve the assessment.) Refer to July 10 Legislative Hearing and July 18 Public Hearings.

Alan Miller, 1000 E 7<sup>th</sup> Street, spoke in opposition to this assessment. The Certificate of Occupancy was valid and not up for renewal until May, 2007. The building was inspected on May 14 where it was found that the fire extinguishers needed updating. She noted that they complied with that order and are still being assessed because of a lack of information shared between City Departments and that should not be a penalty to him.

Councilmember Thune moved to close the public hearing Yeas - 7 Nays - 0

Council President moved approval as amended (per the recommendation of the Legislative Hearing Officer except for 1000 E. 7<sup>th</sup> St. which was deleted per the City Council)

Yeas - 7 Nays - 0

34. Appeal of Michael Gregory 1 LLC to a Revocation of Certificate of Occupancy, which includes condemnation, for property at <u>59 Atwater Street</u>. (Legislative Hearing Officer recommends denying the appeal)

No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and deny the appeal (per the recommendation of the Legislative Hearing Officer)

Yeas - 7 Nays - 0

35. Appeal of Dawn Sysaath, on behalf of Jeanne Finch, to a Revocation of Certificate of Occupancy, which includes condemnation, for property at 167 King Street West. (Legislative Hearing Officer recommends denying the appeal)

No one appeared in opposition; Councilmember Thune moved to close the public hearing and deny the appeal (per the recommendation of the Legislative Hearing Officer) Yeas - 7 Nays - 0

Appeal of Brian Rood to a Summary Abatement Order for property at 1266 7th Street East. (Legislative Hearing Officer recommends denying the appeal and granting an extension on the compliance date from June 15, 2007 to June 22, 2007).
 No one spoke in opposition to this issue; Councilmember Bostrom moved to close the public hearing and deny the appeal and extend the compliance date to June 22, 2007 (per the recommendation of the Legislative Hearing Officer)

# Reconsidered Item:

Resolution – 07-522 – Approving adverse action against all licenses held by Ketsana's St. Paul Restaurant, Inc., dba Ruam Mit Thai Cafe, 475 St. Peter Street. Adopted June 13, 2007; reconsidered and withdrawn.

Councilmember Thune moved to reconsider and withdraw Yeas – 7 Nays –0

## Suspension Items

Councilmember Benanav moved suspension of the rules to introduce the following ordinance: Yeas - 7 Nays - 0

First Reading – 07-547 – An ordinance memoralizing City Council action granting the application of Firstborne Properties (Java Train) to rezone property from R4 (One-Family Residential) to B2 (Community Business) at 1337 Pascal Street North (southwest corner at Bison Avenue). [ZF 07-027-041] (Public hearing held May 16, 2007)

Councilmember Helgen asked if they would be applying for a beer and wine license. He raised concerns of clubs emerging in neighborhoods and will address that with amended language coming forward in an ordinance. Councilmember Benanav said they are applying for the restaurant license now and it is a family orientated business.

Laid over to June 27 for second reading

Councilmember Benanav moved suspension of the rules to introduce the following ordinance: Yeas - 7 Nays - 0

First Reading – 07-548 – Establishing zoning requirements for the Central Corridor area to implement the Development Strategy.

Councilmember Montgomery addressed differences that she and Councilmember Benanav had on the timing of bringing this item forward. Laid over to June 27 for second reading

Councilmember Benanav moved suspension of the rules to introduce the following resolution: Yeas - 7 Nays - 0

Resolution – 07–549 – Approving interim zoning requirements for the Central Corridor area while a zoning study is completed to determine needed zoning code changes to implement the Development Strategy and the City Council considers, and adopts the Development Strategy and zoning code amendments.

Councilmember Benanav said a policy session will be held on July 11 and the public hearing will take place on July 18 regarding this issue. Councilmember Montgomery encouraged people to show up for the policy session as there is a great deal of misconception surrounding this issue. Council President Lantry stated that people who wanted to participate in the policy session should contact Trudy Moloney, Director of Council Operations, so she can coordinate potential participants for the session.

Councilmember Benanav moved approval. Adopted Yeas – 7 Nays – 0

A moment of silence was held to remember the nine firefighters in South Carolina who lost their lives in the line of duty.

Councilmember Thune moved to adjourn the meeting.

ATTEST:	ADJOURNED at 7:25 P.M.
Mary Erickson Assistant Council Secretary	Kathy Lantry, Council President
Submitted by:	August 1, 2007
Carol Broermann	Minutes approved by Council